

Date

In Reply Refer To:
2800 (P010)
AZA-35833

CERTIFIED MAIL - RETURN RECEIPT REQUESTED NO.

DECISION

City of Peoria, Engineering Department	:	Application for Right-of-Way Grant
9875 N. 85 th Avenue	:	Authorized and Rent Determination
Peoria, Arizona 85345-7100	:	

Right-of-Way Grant Authorized
Rental Determined

An application for a pedestrian trail and bank stabilization project right-of-way (grant AZA-35833) was filed by the City of Peoria, on November 16, 2011, pursuant to Title V of the Federal Land Policy Management Act (FLPMA), with regards to the following described public lands:

G&SR Meridian, Arizona,
T. 4 N., R. 1 E., Sec 23, NW¹/₄SE¹/₄.

Enclosed is a copy of right-of-way grant number AZA-35833 which has been approved by the Bureau of Land Management (BLM).

According to Federal regulations contained in 43 CFR 2804.14, the BLM is required to be reimbursed for the costs incurred in processing a right-of-way application. Per 43 CFR 2805.16 and 2805.17, holders must pay a fee to the BLM for the costs we will incur in monitoring the construction and operation of your authorized use. The City of Peoria paid the required \$1108.00 processing fee on July 19, 2013 and the \$119 monitoring fee, on April 3, 2014.

The collection of rent is established according to regulations found at 43 CFR 2806. As a city, state, or local government, the City of Peoria is not required to pay rental on the above-referenced right-of-way.

AZA-35214 is hereby authorized as a perpetual right-of-way. The issuance of this right-of-way grant constitutes a final decision by BLM in this matter.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days of receipt of this decision. If you request a stay, the appellant has the burden of showing that the appealed decision is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the enclosed Standards for Obtaining a Stay. Copies of the notice of appeal and the petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If you have any questions, please contact Hillary Conner, Realty Specialist, at 623-580-5649.

Rem Hawes
Field Manager /S/ 4-11-14

Enclosures

HFO:hconner:db:x649:4/3/14:AZA-35833 Decision Letter

United States
Department of the Interior
Bureau of Land Management
Hassayampa Field Office

City of Peoria Bank Stabilization and Pedestrian Trail
AZA-35833
DOI-BLM-AZ-P010-2013-0036-EA

Finding of No Significant Impact

I, the undersigned authorized officer, considering the criteria provided by 40 CFR 1508.27 and the information contained in the attached environmental assessment (DOI-BLM-AZ-P010-2013-0036-EA), and as explained further below, find that the proposed action will not significantly affect the quality of the human environment. Therefore, an environmental impact statement does not need to be prepared.

Context

The City of Peoria (herein referred to as the City) filed a right-of-way application, with the Bureau of Land Management (BLM) Hassayampa Field Office (HFO), on November 16, 2011. The application requests authorization to build bank stabilization and a pedestrian trail. The application was assigned right-of-way number AZA-35833. The National Environmental Policy Act Environmental Assessment number is DOI-BLM-AZ-P010-2013-0036. The project location is the Gila & Salt River Meridian, Maricopa County, T. 4 N., R. 1 E., Section 23 NW¹/₄SE¹/₄ (see map Exhibits B and C). Access is achieved by way of 75th Avenue and Deer Valley Roads and the main cross streets are United States (U.S.) Highway 101 and Beardsley Road.

The City of Peoria's proposed action is to obtain a right-of-way that will allow for the addition of bank stabilization and a pedestrian trail connection along New River. The request is consistent with the Bradshaw-Harquahala Resource Management Plan.

Intensity

1. Impacts that may be both beneficial and adverse

The environmental analysis (documented in DOI-BLM-AZ-P010-2013-0036-EA) identified a limit to the lateral flow of floodwater and protection of the vegetation and structures (located adjacent to the area of the proposed action) as a result of the rock filled wire baskets, used for bank stabilization. Once both banks are stabilized, the area would be completely in conformance with the Middle New River Watercourse Master Plan (MNRWMP) and the velocity of any water flow would be increased by the bank restrictions on either side. This could lead to accelerated downward erosion of the main channel and a possible realignment of the main channel centerline to be parallel with the bank stabilization. With regards to the pedestrian trail, the proposed 8 foot wide concrete path would provide a reduction in dust produced from the use of this popular route. The connection of the trail to existing concrete paths would provide visual continuity to the area and promote people to stay on the designated path.

2. Degree of effect on public health and safety

The environmental analysis identified stream flow and erosion as present in the project vicinity and potentially affecting the natural and human environment. The channel bed, of the proposed location, is designated a Federal Emergency Management Agency (FEMA) Floodway in the National Flood Hazard Layer (NFHL) dataset published October 15, 2013. The proposed bank stabilization would provide channel protection bringing this stretch of the New River, in the City of Peoria, in compliance with the MNRWMP. It would also allow the City of Peoria to maintain a previously agreed upon floodwater conveyance, for the New River, in accordance with their U.S. Army Corps of Engineers (USACE) permit number SPL-1999-16449-SDM. Study recommendations include: bank armoring, grade control structures, and delineation of an erosion hazard setback zone. The proposed bank stabilization would shield against a major storm event to prevent possible loss of land without structures. Furthermore, low level flooding would be maintained within a bank stabilized channel and would protect existing adjacent structures and roadways. Due to the very low slope of the affected area (0.05%), the possible impacts from channel bank stabilization would be very small. The improvement to this approximately 400 foot long section of BLM land would not significantly alter the downstream flow velocity in a major precipitation event. The effects of the overall constraint of the New River channel are examined in the MNRWMP and in the USACE analysis of the permit application. Without the bank stabilization, this isolated parcel is not in conformance with the Watercourse Master Plan. With regards to the pedestrian trail, dust abatement would encourage particulate matter (PM) levels to stay within appropriately identified city levels thereby benefitting the health of the surrounding residents.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas:

There are no unique characteristics of the geographic area that would be impacted by the proposed action. A cultural resource survey was completed within the subject parcel and no resource eligible for inclusion in the National Register of Historic Places was identified. Topographically, the project area has no special Visual Resource Management (VRM) classifications or special use areas. Specifically, it is considered a Recreation Opportunity Spectrum (ROS) Urban Class.

4. Degree to which the possible effects on the quality of the human environment are likely to be highly controversial:

External scoping was conducted by soliciting comments from the public (neighbors and adjacent land owners), through a direct mailing sent through the U.S. Postal Service, within an approximate half mile radius of the proposed action. Comments were accepted by both email and the U.S. Postal Service, for a period of 30 days. No comments were received indicating the action is not controversial. No significant individual or cumulative impacts are anticipated as a result of this action.

5. Degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risk.

The analysis did not identify possible effects on the quality of the human environment that are uncertain or involve unique or unknown risk. Similar structures and improvements are commonly used and the effects are well understood.

6. Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:

The analysis did not reveal that the Proposed Action would establish a precedent for any future actions with significant effects, and the activities are not connected to any other future actions. Implementation of this decision would not trigger other actions, nor is it a part of a larger action in the project area encompassed by this decision. The action is in conformance with the Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan (April 2010) which identifies the isolated parcel as suitable for disposal.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts:

In this case, past, present, and reasonably foreseeable future actions were considered in the analysis however none were identified as potentially significant when combined with the proposed action.

8. Degree to which the action may adversely affect district, sites, highways, structures, or objects listed on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources:

A cultural resource survey was completed within the subject parcel. No cultural resources were identified during the Class III Survey. Specifically, no resources were identified within the parcel as being eligible for inclusion in the National Register of Historic Places.

9. Degree to which the action may adversely affect an endangered or threatened species or its critical habitat:

No endangered or threatened species or critical habitats were identified in the environmental analysis.

10. Whether the action threatens a violation of federal, state, or local environmental protection law:

The analysis showed that the Proposed Action is consistent with federal, state, and local laws or requirements imposed for protection of the environment. Although clearing trees during the breeding season (approximately Feb 15 – August 1 in this area) could destroy active migratory bird nests (prohibited under the Migratory Bird Treaty Act), stipulations were incorporated into the grant in order to mitigate the possibility of such identified impacts.

_____/S/_____
Rem Hawes, Hassayampa Field Manager

_____/03/20/14_____
Date

BLM
PHOENIX DISTRICT OFFICE

ENVIRONMENTAL ASSESSMENT

DOI-BLM-AZ-2013-0036-EA

MARCH 2014

AZA-35833
Bank Stabilization & Pedestrian Trail

AZA-35833

Bank Stabilization & Pedestrian Trail

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I. INTRODUCTION

The City of Peoria (herein referred to as The City) filed a right-of-way application, with the Bureau of Land Management (BLM) Hassayampa Field Office (HFO), on November 16, 2011. The application requests authorization to build bank stabilization and a pedestrian trail. The application was assigned right-of-way number AZA-35833. The National Environmental Policy Act Environmental Assessment number is DOI-BLM-AZ-P010-2013-0036 and 1430 ER (Right of Way Grants) is the relevant subject function code. The project location is the Gila & Salt River Meridian, Maricopa County, T. 4 N., R. 1 E., Section 23 NW¼SE¼ (see map Exhibits B and C). Access is achieved by way of 75th Avenue and Deer Valley Roads and the main cross streets are United States (U.S.) Highway 101 and Beardsley Road.

Purpose and Need for Action

The purpose of the proposed action is to consider whether The City of Peoria's request for a right-of-way that will allow for the addition of bank stabilization and a pedestrian trail connection along New River is consistent with the Bradshaw-Harquahala Resource Management Plan. The need for the action stems from Section 501 of the Federal Policy Management Act (FLPMA) which allows for the BLM's consideration of right-of-ways on public land. Specifically, FLPMA establishes BLM's responsibility to respond to submissions of land use applications pursuant to regulations at 43 CFR 2800. It also authorizes the BLM to grant, issue, or renew right-of-ways upon public land managed by the BLM.

Decision to be Made

The decision to be made is whether or not to approve the proposed bank stabilization and trail connection.

Land Use Plan Conformance

The proposed action is subject to the BLM's land use plan, Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan (April 2010). Lands and realty management is addressed under Land Use Authorizations (LR-24). Regulations contained in 43 Code of Federal Regulations (CFR) 2800 – RIGHTS-OF-WAY UNDER THE FEDERAL LAND POLICY MANAGEMENT ACT contain federal policy with regards to the right-of-way program. The proposed action is in conformance with the terms and conditions of all of the above.

Scoping & Public Participation

Internal scoping was conducted, within BLM, through the use of an interdisciplinary team (IDT). Members of the IDT included a Travel Management Specialist, Archaeologist, Wildlife Biologist, Environmental Engineer, Range Technician, Recreation Specialist and Realty Specialist. Internal scoping for this Environmental Analysis (EA) included a site visit in November 2013 by a HFO Archaeologist and a review of available resource information. External scoping was achieved by soliciting comments from the public (neighbors and adjacent land owners), through a mail out sent through the U.S. Postal Service, within an approximate half mile radius of the proposed action. Comments were accepted by both email and the U.S. Postal Service, for a period of 30 days, however no comments were received. Feedback on the following three questions was requested:

- Are there alternatives to the proposed action that should be analyzed?
- Is there any information / data we should know about when conducting the analysis?
- Are there impacts or cumulative effect issues that should be analyzed?

Issues Identified

During the internal scoping process, the IDT's resource specialists identified the following elements, of the natural and human environment, as present in the project vicinity and potentially affected by the bank stabilization and trail:

- migratory bird habitat and nesting sites
- stream flow and erosion

These elements are addressed in the following subsections. Elements not addressed were determined by the HFO as not potentially present or as potentially present but not subject to potentially significant adverse impacts from the proposed action.

II. ALTERNATIVES

This section describes the options (alternatives) considered to address the purpose and need for the proposed action including the ‘no action’ alternative.

Alternative 1 - Proposed Action

Under the Proposed Action, the BLM would grant a right-of-way to The City of Peoria. This right-of-way would allow The City to construct bank stabilization, on the western bank of the river, and extend the New River Trail along the west side of the River. The City’s proposed project includes the creation of an 8 foot wide concrete surface trail to connect to the existing trail locations to the north and south. Construction is requested to begin as early as February 2014 and is expected to take approximately 30 days. Bank protection will consist of rock filled wire baskets and will be postponed until a later date in hopes of The City obtaining a portion of the funding from the County as a regional project. In the interim, The City has obtained a 404 permit from the U.S. Army Corps of Engineers (COE). All improvements associated with either the trail or the bank stabilization will be build according to MAG specs and in conformance with the 404 permit. The City is the Flood Plan Administrator and, as such, plans on doing the improvements in conformance with the adopted plan, therefore no further permits would be required.

In order to minimize the impacts, The City will not clear more area than necessary for the trail or the bank stabilization project. The bottom of the river channel is to be left in its natural state so disturbance of the existing vegetation and base soil will be minimal. Building the rock filled wire baskets for bank stabilization would serve to limit the lateral flow of floodwater and protect the vegetation and structures located adjacent to the area of the proposed action. Natural reclamation of most of the construction disturbance will occur after natural precipitation events.

The channel protection would also bring this stretch of the New River in the City of Peoria in compliance with the MNRWMP, and allow the City of Peoria to maintain a previously agreed upon floodwater conveyance for the New River, in accordance with their U.S. Army Corps of Engineers (USACE) permit number SPL–1999–16449–SDM.

Alternative 2 - No Action

Under the No Action Alternative, bank stabilization would not occur and the extension of the existing pedestrian trail would continue to be a regular use of the land.

III. AFFECTED ENVIRONMENT & ENVIRONMENTAL CONSEQUENCES

This section describes the existing condition of the potentially impacted resources and how they will or might be affected by the proposed action or an alternative.

The approximately 10 acre proposed action is located on an isolated BLM parcel which is entirely surrounded by private residential homes (33°40'22.82"N 112°13'42.81"W). The pedestrian trail would give authorization for the applicant to pave the existing trail to the already paved trails to the north and west of the parcel. Topographically, the project area has no special Visual Resource Management (VRM) classifications or special use areas. Specifically, it is considered a Recreation Opportunity Spectrum (ROS) Urban Class. Elevation is 1267 feet above sea level (amsl) and eye alt 2404 feet. Vegetation is sparse, and is defined as arid desert scrub. The project area is accessed by U.S. Highway 101 and Beardsley Road, with private parcels located to the north, south, east, and west.

Definition of Terms

Common terms used to describe potential environmental impacts are defined as follows:

Adverse: An effect that is negative or detrimental to one or more resources (e.g. degrades its quality or integrity). *In this document, the term “impact” is assumed to be adverse unless otherwise stated.*

Beneficial: An effect that is positive or beneficial to one or more resources (e.g. enhances its quality or integrity)

Direct: Effects of the action that are a direct result of the action, occurring at the same time and place as the action.

Indirect: Effects of the action that are caused or enabled by the action, but occur later in time or space or through an intermediary, and are reasonably foreseeable (e.g. growth-inducing effects, “but-for” effects, etc.).

Cumulative: Direct and indirect effects of the action combined with the incremental, additive effects of other past, present, and reasonably foreseeable future actions, on a given resource.

Short-Term: An effect that occurs only for a short time relative to the temporal scope of the action. In this case, short term means []

Long-Term: An effect that occurs for a long time relative to the temporal scope of the action. In this case, long term means []

Cumulatively Connected Actions

The CEQ defines cumulative effects (also known as cumulative impacts) as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what (federal or non-federal) agency or person undertakes such actions” (40 CFR 1508.7). In other words, it is the sum total of the direct and indirect effects of the action and the direct and indirect effects of other actions on

the same affected resource or resources (i.e. the overlap of the actions' impacts). It is factored into the overall assessment of the significance of the proposed action's/alternative's impacts. In this case, past, present, and reasonably foreseeable future actions were considered in the analysis however none were identified as potentially significant to the proposed action.

Migratory Bird Habitat

Affected Environment

Tree-lined ephemeral stream banks can provide quality nesting habitat for a variety of migratory bird species (protected under the Migratory Bird Treaty Act). The project area includes such stream banks and could potentially be affected by vegetation removal as part of the action.

No Action Alternative

The vegetation (trees) would remain in the current state and there would be no impact to migratory bird nesting habitat or active nests.

Proposed Action

If trees are removed as a result of the proposed action, nesting habitat would be reduced in the local area. The impact would be proportional to the number of trees removed. Clearing trees during the breeding season (approximately Feb 15 – August 1 in this area) could destroy active migratory bird nests (prohibited under the Migratory Bird Treaty Act).

If trees or saguaro cacti must be removed to accomplish this project, they should be removed between August 1 and February 15 to avoid destroying active migratory bird nests. If trees or saguaro cacti are removed outside of this time period they should first be surveyed by a qualified biologist to insure that active migratory bird nests are not destroyed. Take of migratory birds (including the destruction of active nests) is prohibited under the Migratory Bird Treaty Act. The magnitude of the impact would be proportional to the number of trees or saguaro cacti removed, however the applying the restrictions and precautionary measures above would seek to reduce or eliminate this impact. If no trees or saguaro cacti are removed as a result of this action then impacts to migratory birds would be minimal.

Stream Flow & Erosion

Affected Environment

The affected environment is 10 acres in Reach 2 of the Middle New River Watercourse Master Plan (MNRWMP), located in the W½NWNWSE, N½SWNWSE, sec. 23, T. 4 N., R. 1 E., G&SRM, within the limits of the City of Peoria, Maricopa County, Arizona. The New River is primarily a dry watercourse trending northeast to southwest, however it can be subject to floods and sheet flow during heavy rainfall events. The channel bed consists of cobbles and sand. The channel was more of a braided – channel network, however development of the surrounding parcels has created a more concentrated flow path. Outside of the channel bed, base material consists primarily of firm soil, coarse sand, and fine gravels. Vegetation consists of primarily palo verde, desert scrub, and similar vegetation with a uniform density in the affected area.

Channel sides are unarmored, although upstream of the proposed action, the both channel slopes are armored with gabion mattress with a walking trail on top. There is a walking trail (New River Trail West) near the western and northern boundary of the affected area.

The channel bed is designated a Federal Emergency Management Agency (FEMA) Floodway in the National Flood Hazard Layer (NFHL) dataset published October 15, 2013. The elevation of the channel bed decreases approximately two feet in the affected area.

No Action Alternative

Under the no action alternative, there would be no bank stabilization and a major storm event could cause some loss of land without structures. Low level flooding would not be maintained within a bank stabilized channel and could impact existing adjacent structures and roadways. There would also be no concrete trail to connect to the existing bank north of the affected area.

Proposed Action

Possible impacts from the construction of the bank stabilization vary according to implementation schedules. Completing the western bank stabilization prior to the eastern bank would expose the Glendale bank to a higher likelihood of surface flow during a large precipitation event because there would be no flow restrictions on the east side of the floodway.

The 2001 MNRWMP calls for such things as bank stabilization, within appropriate areas, within the cities of Glendale and Peoria. The water course master plan (WCMP) was initiated in anticipation of impending development and was intended to satisfy a District commitment to the U.S. Army Corps of Engineers to maintain a floodwater conveyance in the New River downstream of the New River Dam. Study recommendations include: bank armoring, grade control structures, and delineation of an erosion hazard setback zone. All improvements will be constructed according to MAG specs and in conformance with the 404 permit. The isolated parcel of BLM land, for which the proposed action is requested, is currently not in conformance with the WCMP.

Once both banks are stabilized, the area would be completely in conformance with the MNRWMP. The velocity of any water flow would be increased by the bank restrictions on either side. This could lead to accelerated downward erosion of the main channel and a possible realignment of the main channel centerline to be parallel with the bank stabilization. Due to the very low slope of the affected area (0.05%), the possible impacts from channel bank stabilization would be very small. The improvement to this approximately 400 foot long section of BLM land would not significantly alter the downstream flow velocity in a major precipitation event. The effects of the overall constraint of the New River channel are examined in the MNRWMP and in the USACE analysis of the permit application.

IV. PARTIES CONSULTED

All members of the public within a half mile radius were given the opportunity to consult. Outside agencies were not consulted for this project because its small size and limited impacts did not necessitate outside special expertise to evaluate.

V. LIST OF PREPARERS

[Complete this section with the names of all BLM staff that participated on your interdisciplinary team – writers, reviewers, and managers]

ID Team Members:

- Archaeologist – Bryan Lausten
- Wildlife Biologist – Codey Carter
- Recreation Specialist – Victor Vizcaino
- Rangeland Technician/Specialist – James Holden
- Travel Management Coordinator – Tom Bickauskas
- Environmental Engineer – Matt Plis
- Realty Specialist – Hillary Conner

Reviewers:

- Planning & Environmental Coordinator – Brent Allen
- Lead Realty Specialist – Jim Andersen

Managers:

- Hassayampa Field Manager – Rem Hawes

Prepared by: Is/

Hillary Conner
Project Lead

Reviewed by: /s/

Brent Allen
Planning & Environmental
Coordinator

Approved by: /s/
3/20/2014

Rem Hawes
Field Manager, Hassayampa Field
Office

VI. REFERENCES

1. Middle New River Watercourse Master Plan Final Report, Revised May 2000; prepared by Stantec Consulting Incorporated
2. CWA 401 Water Quality Certification, State of Arizona for: The Middle New River Watercourse Master Plan dated 3/9/2001; approved by the Arizona Department of Environmental Quality
3. Federal Emergency Management Agency (FEMA) Floodway in the National Flood Hazard Layer (NFHL) dataset published October 15, 2013
4. Permit No. SPL-1999-16449-SDM dated 11/27/2001; approved by the Department of the Army
5. Permit No. SPL-1999-16449-SDM revised 11/30/2011; approved by the Department of the Army
6. 2013 Revision to the 2012 Edition Uniform Standard Specifications and Details for Public Works Construction; sponsored and distributed by the Maricopa Association of Governments (MAG)
7. City of Peoria Surface Management Status Map (Attachment 1)
8. City of Peoria Hedgepeth Hills Quadrangle Map (Attachment 2)
9. City of Peoria Location Map (Attachment 3)
10. City of Peoria SFHA/Flood Zone Boundary Map (Attachment 4)
11. Google Earth FEMA NFHL Floodway Zone Map (Attachment 5)